

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-2190

CATHERINE ANTUNES,

Plaintiff – Appellant,

v.

XAVIER BECERRA, in his official capacity as Secretary of U.S. Department of Health and Human Services; RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA,

Defendants – Appellees,

and

UNIVERSITY OF VIRGINIA HEALTH SYSTEMS; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; FOOD AND DRUG ADMINISTRATION; ROBERT CALIFF, M.D., in his official capacity as Commissioner of the U.S. Food and Drug Administration,

Defendants.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, Senior District Judge. (3:21-cv-00042-NKM-JCH)

ARGUED: January 25, 2024

Decided: February 9, 2024

Before KING and BENJAMIN, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ARGUED: Edward Scott Lloyd, LLOYD LEMMON & HALE, PLLC, Front Royal, Virginia, for Appellant. Frederick William Eberstadt, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Sean R. Janda, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees. **ON BRIEF:** Brian M. Boynton, Principal Deputy Assistant Attorney General, Daniel Tenny, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Samuel Bagenstos, General Counsel, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, Washington, D.C.; Mark Raza, Chief Counsel, Silver Spring, Maryland, Wendy Vicente, Deputy Chief Counsel, Litigation, James Allred, Associate Chief Counsel, UNITED STATES FOOD AND DRUG ADMINISTRATION, Rockville, Maryland, for Appellee Xavier Becerra. Jason S. Miyares, Attorney General, Charles H. Slemp, III, Chief Deputy Attorney General, Andrew N. Ferguson, Solicitor General, Erika L. Maley, Principal Deputy Solicitor General, Kevin M. Gallagher, Deputy Solicitor General, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee Rector and Visitors of the University of Virginia.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

This civil action stems from the University of Virginia Health Systems’ COVID-19 vaccination mandate for employees and plaintiff Catherine Antunes’s November 2021 discharge from her position as a nurse for refusing to comply with that mandate. Following her termination, Antunes sued in the Western District of Virginia, asserting a variety of state and federal claims by her operative Third Amended Complaint of March 2022 (the “Complaint”). In pertinent part, the Complaint alleges that the University of Virginia Health Systems and the Rector and Visitors of the University of Virginia (together, the “UVA Health Defendants”) contravened Antunes’s Fourth and Fourteenth Amendment rights in discharging her. The Complaint also alleges that several federal officials — specifically, the U.S. Department of Health and Human Services (the “DHHS”); Xavier Becerra, the Secretary of the DHHS; the Food and Drug Administration (the “FDA”); and Robert Califf, the FDA Commissioner (collectively, the “Federal Defendants”) — violated the Fourteenth Amendment and the Food, Drug, and Cosmetic Act by failing to prevent the UVA Defendants from firing Antunes.

In September 2022, the district court dismissed all Antunes’s claims against the UVA Health Defendants under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted, and all claims against the Federal Defendants under Rule 12(b)(1) for lack of constitutional standing to sue. *See Antunes v. Rector & Visitors of Univ. of Va.*, 627 F. Supp. 3d 553 (W.D. Va. 2022) (the “Memorandum Opinion”). Antunes timely noted this appeal, naming only the University of Virginia

Health Systems and Secretary Becerra as appellees and contesting the dismissal of the claims described above.

Having assessed the various submissions of the parties and with the benefit of oral argument, we are satisfied that the district court did not err in dismissing Antunes's claims. Indeed, we readily adopt the court's carefully crafted and well-reasoned Memorandum Opinion addressing the relevant issues. We therefore reject each of Antunes's appellate contentions and affirm.

AFFIRMED